

REMARKS

Claims 1-6, 8-10 and 12-24 are currently pending in the application. Claims 22-24 are hereby canceled and claims 1 and 12 are amended. These claims have been canceled or amended without prejudice to, or disclaimer of, the subject matter thereof. Applicant reserves the right to file continuing applications directed to the subject matter of any claim canceled or amended for any reason.

The amendments to claims 1 and 12 place the application in better condition for examination. It is submitted that no new matter has been introduced by these amendments with support found in the specification as filed. By these amendments, Applicant does not acquiesce to the propriety of the Office's rejections and does not disclaim any subject matter to which Applicant is entitled. *Cf. Warner Jenkinson Co. v. Hilton-Davis Chem. Co.*, 41 USPQ.2d 1865 (US 1997).

Applicant respectfully requests reconsideration of the pending rejections in view of the amendments and remarks presented herein. Applicant also requests a two month extension of time to extend the time for response from December 18, 2009 to February 18, 2010 and hereby authorizes that the fees for these extensions be withdrawn from the deposit account identified in the "Conclusion" section of this paper.

I. Withdrawn Rejections

Applicant thanks the Office for its reconsideration and withdrawal of the previous rejections of claims 1-6, 8-10 and 12-24 under 35 USC § 112, first paragraph. Office Action mailed September 18, 2009 (OA), page 2.

II. 35 USC § 102 Rejections

Claims 1-6, 8-10 and 12-21 stand rejected under 35 USC § 102(e) as anticipated by U.S. Patent Publication No. 2004/0087893 (Kwon) as evidenced by Allergan (pages 1-4 <http://www.allergan.com/download/BotoxPI.pdf> accessed on March 22, 2007). OA, page 3. Applicant respectfully disagrees.

In order to support an anticipation rejection under 35 USC § 102, the Office must illustrate that each and every element of a claimed invention was disclosed within a single prior art reference. *In re Bond*, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990). A

claimed invention is anticipated only when it is "known to the art in the detail of the claim." *Karsten Manufacturing Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383 (Fed. Cir. 2001). In other words, not only must the limitations of the claim be shown in a single prior art reference, the limitations must be "arranged as in the claim." *Id.* Kwon does not teach or disclose every element of the pending claims.

As amended, pending independent claim 1 recites administering a therapeutically effective amount of a liquid solution comprising a botulinum toxin by intradermal injection or subdermal injection with a hollow bore needle per session wherein the administration of the liquid solution comprising botulinum toxin does not follow the administration of a first drug within the same session. Kwon does not disclose administering a therapeutically effective amount of a liquid solution comprising a botulinum toxin by intradermal injection or subdermal injection with a hollow bore needle per session wherein the administration of the liquid solution comprising botulinum toxin does not follow the administration of a first drug within the same session.

As amended, pending independent claim 12 recites a method for treating a typical mole, a dysplastic mole, a pyogenic granuloma or a seborrheic keratose by administering a therapeutically effective amount of a liquid solution comprising a botulinum toxin. Kwon does not disclose a method for treating a typical mole, a dysplastic mole, a pyogenic granuloma or a seborrheic keratose by administering a therapeutically effective amount of a liquid solution comprising a botulinum toxin. Kwon's failure to disclose this subject matter was previously acknowledged by the Office when it objected to currently canceled claims 22-24 based solely on their dependency to a rejected claim. It is respectfully noted that previous claims 22-24 were not rejected in the Office Action, and thus incorporation of their limitations into independent claim 12 places claim 12 and all claims dependent therefrom in condition for allowance.

Based on the foregoing, Applicant respectfully requests that the Office reconsider and withdraw the pending rejections of claims 1-6, 8-10 and 12-21 under 35 USC § 102(e) based on Kwon.

CONCLUSION

Applicant submits that the present application is now in condition for allowance. Examination and a Notice of Allowance regarding claims 1-6, 8-10 and 12-21 is respectfully requested.

The Commissioner is hereby authorized to charge any fee(s) required or necessary for the filing, processing or entering of this paper, including and extension of time to reply to the outstanding Office Action, or any of the enclosed papers, and to refund any overpayment, to deposit account 01-0885.

Respectfully submitted,

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